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| 10/076,346      | 02/19/2002  | Akira Takano         | F05-138810M/ARK     | 1374             |

7590 07/13/2004

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EXAMINER

GUTMAN, HILARY L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3612

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/076,346

Applicant(s)

TAKANO ET AL.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7, 9, 10 and 29-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 and 10 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 9 and 29-43 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mounting brackets for attachment of the steering support beam to the vehicle body of claims 32 and 39 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claims 2, 34, and 41 are objected to because of the following informalities:

In claim 2, on line 3, "an" should be inserted before "opening".

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In claims 34 and 41, line 2, "a front side of said glove box" is misleading and should apparently be "a front side to said glove box" (both occurrences).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 recites the limitation "said duct" in line 1. There is insufficient antecedent basis for this limitation in the claim. Perhaps this claim should depend from claim 29 or "said duct" should be changed to "a duct".

### ***Double Patenting***

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

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6. Claim 38 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 37. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 7, 32, and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Derleth et al.

For claim 1, Derleth et al. disclose a blower unit mounting structure comprising: an instrument panel 10 including an upper panel 60 and a lower panel 98 that are vertically divided along a transverse direction of a vehicle body; a steering support beam 72 fixed to the lower panel; and a blower unit 20 fixed to the lower panel and to the steering support beam to form a unitized component; wherein the lower panel 98 is upwardly open (seen in Figure 2) to provide access to the blower unit from above.

For claim 7, Derleth et al. disclose a blower unit mounting structure comprising: an instrument panel 10 including an upper panel 60 and a lower panel 98; a support beam 72

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connected to the lower panel; and a blower unit 20 connected to the steering support beam and the lower panel; wherein the lower panel 98 is upwardly open (seen in Figure 2) to provide access to the blower unit from above.

With regard to claims 32 and 39, the steering support beam 72 comprises mounting brackets 74 for attachment to the vehicle body.

9. Claims 1-2, 7, 29-31, 33, 35-38, 40, and 42-43 are rejected under 35 U.S.C. 102(e) as being anticipated by WO '833.

WO 99/26833 discloses a blower unit mounting structure comprising: an instrument panel S including an upper panel 33 and a lower panel 32 that are vertically divided along a transverse direction of a vehicle body; a steering support beam 41 fixed indirectly to the lower panel; and a blower unit G, H fixed to the lower panel and to the steering support beam to form a unitized component, wherein the lower panel 32 is upwardly open to provide access to the blower unit from above.

With regard to claim 2, a front bulkhead 24 that includes a vertical wall surface with an opening (Figure 8).

For claim 7, WO '833 discloses a blower unit mounting structure comprising: an instrument panel S including an upper panel 33 and a lower panel 32; a support beam 41 connected to the lower panel; and a blower unit G, H connected to the steering support beam and the lower panel, wherein the lower panel is upwardly open to provide access to the blower unit from above.

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With regard to claims 29 and 36, WO '833 show the lower panel being upwardly open to provide access from above to the blower unit to align a duct of the blower unit with an opening in a front bulkhead (Figure 8).

With regard to claim 30, the duct extends from an upper part of the blower unit.

With regard to claims 31, 37, and 38, WO '833 disclose the blower unit comprising a duct (Figure 8) for aligning with an opening in a vertical wall surface of a front bulkhead 24 of the vehicle body.

With regard to claims 33 and 40, the lower panel comprises a glove box 30 fastened by an upper surface to the steering support beam (Figure 7).

With regard to claims 35 and 42, the blower unit comprises a heater and ventilation unit disposed along a side of the glove box. Specifically, the blower unit is disposed at a center portion of the vehicle body (as seen in Figure 2) where openings 45 serve as air inlets from the blower unit H (Figure 8). The glove box therefore is adjacent to the blower unit on one of the sides thereof.

For claim 43, WO '833 discloses a blower unit mounting structure for a vehicle, the structure comprising: an instrument panel S including an upper panel 33 and a lower panel 32; a steering support beam 41 connected to the lower panel; and a blower unit G, H connected to the steering support beam and the lower panel, wherein the blower unit comprises a duct (Figure 8) for mounting to an opening in a vertical wall surface of a front bulkhead 24 of the vehicle.

10. Claims 1, 7, 33-34, and 40-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Suyama et al.

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Suyama et al. disclose a blower unit mounting structure comprising: an instrument panel including an upper panel 102 and a lower panel 96, 98, 100 that are vertically divided along a transverse direction of a vehicle body; a steering support beam 18 fixed to the lower panel; and a blower unit 37 fixed to the lower panel and to the steering support beam to form a unitized component, wherein the lower panel is upwardly open to provide access to the blower unit from above.

For claim 7, Suyama et al. disclose a blower unit mounting structure comprising: an instrument panel including an upper panel 102 and a lower panel 96, 98, 100; a support beam 18 connected to the lower panel; and a blower unit 37 connected to the steering support beam and the lower panel, wherein the lower panel is upwardly open to provide access to the blower unit from above.

With regard to claims 33 and 40, the lower panel comprises a glove box 96 fastened by an upper surface to the steering support beam (Figure 6).

With regard to claims 34 and 41, the blower unit 37 comprises a blower main body that is disposed along a front side to the glove box (Figure 6).

11. Claims 1, 7, 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Lorenz et al.

For claim 1, Lorenz et al. disclose a blower unit mounting structure comprising: an instrument panel 1 including an upper panel 2, 4, 5 and a lower panel 3 that are vertically divided along a transverse direction of a vehicle body; a steering support beam 43 fixed to the lower panel; and a blower unit 17 fixed to the lower panel and to the steering support beam to form a



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unitized component; wherein the lower panel 3 is upwardly open (Figure 4) to provide access to the blower unit from above.

For claim 7, Lorenz et al. disclose a blower unit mounting structure comprising: an instrument panel 1 including an upper panel 2, 4, 5 and a lower panel 3; a support beam 43 connected to the lower panel; and a blower unit 17 connected to the steering support beam and the lower panel; wherein the lower panel 3 is upwardly open (Figure 4) to provide access to the blower unit from above.

With regard to claim 9, Lorenz et al. further comprise a toe board 75 having a recessed portion 76, 77.

#### ***Allowable Subject Matter***

12. Claims 3 and 10 are allowed.

13. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

14. Applicant's arguments with respect to claims 1-2, 7, 9, and 29-43 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other blower unit mounting structures similar to that of the current invention.

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16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose number is 703-308-1134.

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18. **Any response to this final action should be mailed to:**

Box AF

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

(703) 872-9327, (for formal communications; please mark "EXPEDITED  
PROCEDURE")

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label  
"PROPOSED" or "DRAFT").

 - 2/12/07

D. GLENN DAYOAN  
SUPERVISORY PATENT EXAMINER  
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